REMARKS

Claims 1-14, 16-21 and 24-38 are pending in this application. Claims 15, 22 and 23 are cancelled. Claims 1, 3-14, 16 and 36 are newly amended herein. Support for the amendments to claims 1, 3-14, 16 and 36 is found, for example, in original claims 1, 3-14, 16 and 36 and elsewhere throughout the specification. Claims 1, 3-14 and 16 were amended to comply with U.S. patent practice. Additional support for the amendments to claim 36 are found on page 4, lines 1-3 and elsewhere throughout the specification. The amendments to claims 1, 3-14, 16 and 36 are not believed to add new matter and entry is respectfully requested.

Restriction Requirement

In response to the restriction requirement in the Office Action dated December 12, 2004, Applicants respectfully elect, with traverse, to prosecute Group I (claims 1-10) drawn to sundry erythroviral nucleic acids, probes, primers, and complementary sequences thereof and primer pairs. Applicants further request examination of Group II (claims 11-14, 16, 24-27, 37 and 38) drawn to various diagnostic, screening, and typing methods employing sundry nucleic acids, probes, and complementary sequences thereof; and Group VII (claim 36, drawn to a diagnostic kit comprising sundry nucleic acids, probes, primers and complementary sequences thereof).

The Office Action restricted pending claims 1-14, 16-21 and 24-38 into the following groups:

1. Group I, claims 1-10, drawn to sundry erythroviral nucleic acids, probes, primers, and complementary sequences thereof and primer pairs.
2. Group II, claims 11-14, 16, 24-27, 37 and 38, drawn to various diagnostic, screening, and typing methods employing sundry nucleic acids, probes and complementary sequences thereof.

3. Group III, claims 17-20, 28 and 29, drawn to proteins or polypeptide fragments thereof and immunogenic compositions containing said proteins or fragments.

4. Group IV, claims 21, 30 and 31, drawn to an antibody directed against sundry erythrovirus proteins, polypeptides or fragments thereof.

5. Group V, claims 32 and 33, drawn to *in vitro* screening methods employing sundry erythroviral proteins, polypeptides or fragments thereof.

6. Group VI, claims 34 and 35, drawn to *in vitro* screening methodologies employing sundry erythroviral-specific antibodies.

7. Group VII, claim 36, drawn to a diagnostic kit comprising sundry nucleic acids, probes, primers and complementary sequences thereof.

8. Group VIII, claim 36, drawn to a diagnostic kit comprising sundry proteins or polypeptide fragments thereof.

9. Group IX, claim 36, drawn to a diagnostic kit comprising antibodies directed against sundry erythroviral proteins, polypeptides or fragments thereof.

Applicants respectfully traverse the restriction requirement. The Office asserts the inventions listed as Groups IIII-VIII do not relate to a single inventive concept under PCT Rule 13.1 because under PCT Rule 13.1, the groups lack the same or corresponding special technical features.

As the Office is aware, the application is subject to the PCT standards of restriction. The invention of Group I is directed towards sundry erythroviral nucleic acids, probes, primers and complementary sequences thereof. Indeed, Group I relates to different nucleic acids, some of them being used as probes and primers. Group II relates to a method employing the nucleic acids and Group VII relates to a kit comprising the nucleic acids. Groups II and VII thus share a special technical feature with Group I (the common technical feature of a sequence of Group I.)

Furthermore, Applicants respectfully submit that the Office Action appears to contain errors. The subject matter of claim 37, which is directed to a diagnostic reagent of claim

10, should be included within Group I (which includes claim 10) and not Group II (having claims directed to methods). Claim 38, directed to a nucleic acid and dependent upon claim 1, should be included within Group I (which includes claim 1) and not Group II (having claims directed to methods). Claim 36, which is directed to a kit comprising sundry nucleic acids, probes, primers and complementary sequences thereof, was erroneously placed into a group separate from Group I, which contains claims directed to the same nucleic acids, probes, primers and complementary sequences thereof as claimed in claim 36. As set out in MPEP § 1850 and PCT Rule 13.2, the requirement of unity of invention is fulfilled when there is:

> a technical relationship among those inventions *involving one or more of the same or corresponding special technical features.* The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Claim 36 has been amended to comprise the common technical feature as described by the Office's response to the Applicants' petition, a primer that hybridizes to a sequence of SEQ ID NO: 1 of claim 1 under stringent conditions. As amended, claim 36 shares the special technical features with the subject matter of the claims of Group I, and thus is properly examined with the claims of Group I as elected here.

It is respectfully requested that Groups I, II and VII (claims 1-10, 11-14, 16, 24-27 and 36-38) be examined as a whole. Reconsideration and withdrawal of the requirement respectfully requested.

EXCEPT for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF**

TIME in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,
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